

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

COREY PAUL EDWARD SUKALICH,

Plaintiff,

Case No. 19-cv-1730-pp

v.

COMMISSIONER OF THE
SOCIAL SECURITY ADMINISTRATION,

Defendant.

**ORDER DENYING MOTION FOR LEAVE TO PROCEED WITHOUT
PREPAYMENT OF THE FILING FEE (DKT. NO. 2)**

The plaintiff has filed a complaint seeking judicial review of a final administrative decision denying his claim for disability insurance benefits under the Social Security Act. Dkt. No. 1. He also filed a motion for leave to proceed without prepaying the filing fee. Dkt. No. 2.

To allow the plaintiff to proceed without paying the filing fee, the court first must decide whether the plaintiff can pay the fee; if not, it must determine whether the lawsuit is frivolous. 28 U.S.C. §§1915(a) and 1915(e)(2)(B)(i).

Based on the facts in the plaintiff's affidavit, the court concludes that he has the ability to pay the filing fee. The plaintiff's affidavit indicates that he is not employed, he is not married, and he has no dependents he is responsible for supporting. Dkt. No. 2 at 1. The plaintiff lists no income or source of income, stating that he is "Medically Disabled." Id. at 2. The plaintiff lists monthly expenses totaling \$2,271 (\$1,303 mortgage, \$200 credit card payments, \$660 other household expenses, \$68 car insurance, \$40 pet care). Id. at 2-3. The plaintiff owns a 2009 BMW worth approximately \$16,000 and a


1995 Ford valued at approximately \$500. Id. at 3. The plaintiff owns a home with approximately \$53,910 in equity, he has \$27,241 in cash on hand or in a checking or savings account, and he has \$28,635 in "Retirement Savings." Id. at 3-4. The plaintiff states, "Due to my medical disability, I am physically unable to work and rely solely on my savings to be able to live, any minor fee expense is a burden to me. . . . My savings will eventually run out due to a lack of income and the Appeal's Council failing to even review my decisions is an unfair attack on me, forcing me to pay for a federal hearing." Id. at 4. While the court sympathizes with the plaintiff's stated need to use his savings to pay his living expenses, the facts in the affidavit demonstrate that he has the disposable income to pay the \$350 filing fee and \$50 administrative fee.

Because the court concludes that the plaintiff has the ability to pay the filing fee, it need not determine whether the case is frivolous.

The court **DENIES** the plaintiff's motion for leave to proceed without paying the filing fee. Dkt. No. 2. The court **ORDERS** that the plaintiff shall pay the \$350 filing fee and \$50 administrative fee by the end of the day on **January 3, 2020**. If the court does not receive the fee in full by the end of the day on January 3, 2020, the court will dismiss the case on the following business day without further notice or hearing, for failure to pay the required filing fee.

Dated in Milwaukee, Wisconsin this 2nd day of December, 2019.

BY THE COURT:


HON. PAMELA PEPPER
Chief United States District Judge